

during which the annuitant was entitled to an annuity under this subchapter; and

(ii) the average pay which would otherwise be used shall be adjusted to reflect all adjustments made under section 8462(b) with respect to any period (or periods) referred to in clause (i) (without regard to whether the annuitant's annuity was affected by any of those adjustments).

(c) Except as provided in subsection (d), the annuity of an annuitant under this subchapter shall be computed under section 8415 if—

(1) such annuity commences, or is restored, beginning on or after the redetermination date of the annuitant; or

(2) as of the day on which such annuity commences, or is restored, the annuitant satisfies the age and service requirements for entitlement to an annuity under section 8412 (other than subsection (g) of such section).

(d)(1) The annuity to which an annuitant is entitled under this section (after the reduction under subsection (a)(2), if applicable, has been made) shall not be less than the amount of an annuity computed under section 8415 (excluding subsection (g) of such section).

(2) In applying this subsection with respect to any annuitant, the amount of an annuity so computed under section 8415 shall be adjusted under section 8462 (including subsection (c) thereof)—

(A) to the same extent, and otherwise in the same manner, as if it were an annuity—

(i) subject to adjustment under such section; and

(ii) with a commencement date coinciding with the date the annuitant's annuity commenced or was restored under this subchapter, as the case may be; and

(B) whether the amount actually payable to the annuitant under this section in any month is determined under this subsection or otherwise.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 566; amended Pub. L. 99-556, title I, §§104, 106, Oct. 27, 1986, 100 Stat. 3131, 3132; Pub. L. 100-238, title I, §122(a)–(c), Jan. 8, 1988, 101 Stat. 1753, 1754; Pub. L. 108-176, title II, §226(b)(2)(B), Dec. 12, 2003, 117 Stat. 2530.)

#### REFERENCES IN TEXT

Sections 223 and 224 of the Social Security Act, referred to in subsec. (a)(2), are classified to sections 423 and 424a, respectively, of Title 42, The Public Health and Welfare.

#### AMENDMENTS

2003—Subsec. (d)(1). Pub. L. 108-176 substituted “subsection (g)” for “subsection (f)”.

1988—Subsec. (a)(1)(B). Pub. L. 100-238, §122(c)(2)(A), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “An annuity computed under this paragraph shall not, for purposes of any adjustment under section 8462 (including any adjustment under subsection (c)(1) of such section), be considered to have commenced until after such annuity ceases to be determined under subparagraph (A)(i).”

Subsec. (a)(2)(B)(i). Pub. L. 100-238, §122(a), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: “For purposes of this paragraph, the assumed disability insurance benefit of an annuitant for any month shall be equal to—

“(I) the amount of the disability insurance benefit to which the annuitant would have been entitled under section 223 of the Social Security Act for the month in which the annuity under this subchapter commenced, or was restored, determined as if such annuitant had then satisfied all requirements for entitlement to a benefit under such section, adjusted by

“(II) all adjustments made under section 8462(b) between the date on which the annuity commenced, or was restored, and the start of the month involved (without regard to whether the annuitant's annuity was affected by any of those adjustments).

For purposes of computing the assumed disability insurance benefit, the month in which the annuitant's disability began (as determined under section 216(i)(2)(C) of the Social Security Act) shall be the month in which the annuity commenced or, if earlier (and if a determination was actually made) the month determined under such section.”

Subsec. (a)(3). Pub. L. 100-238, §122(c)(2)(B), added par. (3).

Subsec. (b). Pub. L. 100-238, §122(b), amended subsec. (b) generally, substituting pars. (1) and (2) for former pars. (1) to (4).

Subsec. (d). Pub. L. 100-238, §122(c)(1), designated existing provisions as par. (1) and added par. (2).

1986—Subsec. (b)(3). Pub. L. 99-556, §106, substituted “(a)(1)(A)(i)” for “(a)(1)(A)” in second sentence.

Subsec. (d). Pub. L. 99-556, §104, inserted “(after the reduction under subsection (a)(2), if applicable, has been made)”.

#### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 effective on 60th day after Dec. 12, 2003, and applicable with respect to any annuity entitlement based on an individual's separation from service occurring on or after such effective date, and any service performed by any such individual before, on, or after such effective date, subject to special rule relating to deposit requirement, see section 226(c) of Pub. L. 108-176, set out as a note under section 8401 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 122(d) of Pub. L. 100-238 provided that: “The amendments made by this section [amending this section] shall be effective as of January 1, 1987, as if they had been enacted as part of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 514 and following).”

### § 8453. Application

A claim may be allowed under this subchapter only if application is filed with the Office before the employee or Member is separated from the service or within 1 year thereafter. This time limitation may be waived by the Office for an employee or Member who, at the date of separation from service or within 1 year thereafter, is mentally incompetent if the application is filed with the Office within 1 year from the date of restoration of the employee or Member to competency or the appointment of a fiduciary, whichever is earlier.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 568.)

### § 8454. Medical examination

An annuitant receiving a disability retirement annuity from the Fund shall be examined under the direction of the Office—

(1) at the end of 1 year from the date of the disability retirement; and

(2) annually thereafter until becoming 60 years of age;